

Attachment III

Comparison of NYSDEC CNMP and ANMP to Federal NMP Requirements

Federal NMP Requirements – 40 CFR 122.42(e)(1)	NYSDEC CNMP (Part III)	NYSDEC ANMP (Appendix C)	Conclusions / Recommendations *
(i) Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities	Part III.B.2 and Part III.B.3 & 5 (specific requirements for waste storage structures and leachate collection) Part III.A.5 references O&M requirements for BMPs	Section II (Farmstead / Production Area Elements) has several rows for identification of manure storage facilities, temporary manure pile areas, manure and / or process wastewater transfer structures) via plan map or a facility narrative	Neither the CNMP nor ANMP meet the requirements for a NMP at 40 CFR 122.42(e)(1)(i). The CNMP requirements do not include requirements for procedures to ensure proper operation and maintenance of the storage facilities. In addition, the ANMP only requires a plan map or facility narrative that includes a comprehensive description of all items listed. Procedures for O&M in storage facilities must be addressed.
(ii) Ensure proper management of mortalities (i.e. dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities	Part III.B.12 (generally conforms; omits “stormwater” from list)	Section II (Farmstead / Production Area Elements) has row for identification of Mortality Management Facilities (if utilized) via a plan map or facility narrative	The ANMP only requires a plan map or facility narrative that includes a comprehensive description of all items listed. The CNMP has the general equivalent of the requirement, but omits “stormwater” from the list of where mortalities cannot be disposed; NYSDEC must include stormwater on the list.
(iii) Ensure that clean water is diverted, as appropriate, from the production area	Part III.B.6	Section II (Farmstead / Production Area Elements) has row for	This issue is not addressed in the draft NYSDEC CAFO permit and is not clearly defined or stated in the CNMP

Federal NMP Requirements – 40 CFR 122.42(e)(1)	NYSDEC CNMP (Part III)	NYSDEC ANMP (Appendix C)	Conclusions / Recommendations *
	(requires barnyards and associated wastes to be isolated from outside surface drainage by ditches, dikes, berms, diversions, or other such structures...)	identification of “clean water flows” via a plan map or facility narrative	<p>or ANMP. Information referenced in Part III.B.6 is not comparable to the Federal requirement in 40 CFR 122.42(e)(1)(iii). The ANMP only requires a plan map or facility narrative that includes a comprehensive description of all items listed.</p> <p>Diversion of clean water must be clearly outlined in the NMP in accordance with Federal Requirements.</p>
(iv) Prevent direct contact of confined animals with waters of the United States	Part III.B.9		Satisfactory for CNMP; not referenced in the ANMP.
(v) Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants			<p>Neither the CNMP nor ANMP appear to include a requirement to ensure that chemicals or other contaminants handled on-site are not disposed of in any manure, litter, process wastewater or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants.</p> <p>NYSDEC must ensure that 40 CFR 122.42(e)(1)(v) is addressed.</p>
(vi) Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or	Part III.A.7.d	Section III (Field Elements) has rows for identification of setbacks, buffers, erosion control elements via plan map or facility narrative	Satisfactory for CNMP and ANMP.

Federal NMP Requirements – 40 CFR 122.42(e)(1)	NYSDEC CNMP (Part III)	NYSDEC ANMP (Appendix C)	Conclusions / Recommendations *
equivalent practices, to control runoff of pollutants to waters of the United States			
(vii) Identify protocols for appropriate testing of manure, litter, process wastewater, and soil	Part IV.E	Section IV of ANMP includes rows for soil analysis (once every 36 months)	<p>40 CFR 122.42(e)(1)(vii) requires that protocols be established in the NMP for appropriate testing of manure, litter, process wastewater and soil. NYSDEC's CNMP requirements only require that the annual analyses from the "land applied waste sources" be maintained with the CNMP. There is no requirement for soil sampling records to be maintained in addition to the waste sources. The actual protocols for testing are not specifically identified as part of the CNMP requirements.</p> <p>In addition, NYSDEC's ANMP requirements appear to only require the analysis results (annually for manure containment structures; every 36 months / 3 years for soil).</p> <p>NYSDEC's permit must ensure that the NMP identifies the sampling protocols for manure, litter, process wastewater and soil as identified in 40 CFR 122.42(e)(1)(vii).</p>
(viii) Establish protocols to land apply manure, litter, and process wastewater in accordance with site	Part III.A.7 (Waste Application Requirements)	Section IV (Field Management) section of ANMP requires information from the producer, such as field ID, planned crops, expected	Part III.A.7 identifies waste application requirements that CAFOs must incorporate into CNMPs and states that "farm personnel shall manage

Federal NMP Requirements – 40 CFR 122.42(e)(1)	NYSDEC CNMP (Part III)	NYSDEC ANMP (Appendix C)	Conclusions / Recommendations *
specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater		yields, manure recommendations, manure source, manure application rate/timing/method and chemical fertilizer recommendations	<p>application rates and timing so as to prevent runoff during any given application event.” This does not give reasonable assurance that there will be appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater and that NMPs will be developed accordingly. Furthermore, NYSDEC’s permit does not define the “terms of the nutrient management plan” (e.g. linear or narrative and the associated requirements for each methodology). As a result, it is difficult to ensure that appropriate utilization of nutrients will occur.</p> <p>Section IV of the ANMP contains limited amounts of information, which can be used for the NMP approaches (planned crops-for crop year only, expected yields, manure recommendation, etc.); however, the information is incomplete and the terms of the NMP again are not defined.</p> <p>Methodology must be included.</p>
(ix) Identify the specific records that will be maintained to document the implementation and management of the minimum elements	Part III.F.2 states that CAFO owners and operators must maintain a copy of the site specific CNMP on-site and records documenting the implementation of BMPs and procedures described in the CNMP.		While Part III.F.2 of the CNMP requires CAFO owners and operators to maintain a copy of the NMP on-site and records documenting the implementation of BMPs and procedures described in the NMP,

Federal NMP Requirements – 40 CFR 122.42(e)(1)	NYSDEC CNMP (Part III)	NYSDEC ANMP (Appendix C)	Conclusions / Recommendations *
described in paragraphs (e)(1)(i) through (e)(1)(viii) of this section.			<p>there is no language that requires CAFOs to identify the specific records that will be maintained (as required by 40 CFR 122.42(e)(1)(ix).</p> <p>As noted previously, NYSDEC specifically requires that manure analyses must be maintained on-site with the CNMP (Part IV.E).</p> <p>To ensure that all necessary documents are maintained, the specific documents need to be listed in the NMP.</p>

*NYSDEC needs to address EPA's recommendations in the document that NYSDEC chooses to utilize as a NMP.